

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 26.03.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN
Writ Petition No.25267 of 2016

Jayaprakash

... Petitioner

..vs..

1. The Chief Engineer,
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai - 600 002.

2. The Superintending Engineer,
Perambalur Electricity Board,
Perambalur

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the Second Respondent in Ka.No.242/Ni.P.1/U4/Ko.Va.Ve/2016 dated 19.01.2016 quash the same and consequently direct the Respondents to provide job by appointing the Petitioner on Compassionate grounds.

For Petitioner : M/s N.Valliamma
For R1 & R2 : Mr.Fakkir Mohideen

ORDER

According to the petitioner, her father namely Arokiasamy worked as Wireman in the respondent Board. He died on 24.08.2006, while he was in service. At that time, the petitioner was aged about 13 years and studying 8th standard; his brothers were also minors; and his mother was an illiterate. So, on attaining the age of majority, the Petitioner made application on 21.05.2013 to the respondents, seeking compassionate appointment. On receipt of the same, the second respondent sent a communication dated 01.07.2013 in Ka.No./Ni.P.1/U4/Ko.VaVe/2013 stating that the application was not made within 3 years from the date of death of his father. Being dissatisfied with the same, the petitioner made a representation dated 17.08.2015 to the second respondent, which was again rejected, by order dated 19.01.2016 on the ground of limitation. Challenging the same, he has preferred this writ petition to quash the same and consequently, direct the respondents to provide him job under the compassionate grounds.

2.Heard Mrs.N.Valliamma, learned counsel for the petitioner and Mr.Fakkir Mohideen, learned counsel for the respondents and also perused the documents enclosed in the typed set of papers.

3.It is seen that the petitioner's father died on 24.08.2006, while he was in service. At that time, the petitioner was minor, his brothers were also minors and his mother was an illiterate. Thereafter, on attaining the age of majority, the petitioner made application dated 21.05.2013 seeking compassionate appointment, which was rejected as time barred, by the second respondent, by the order impugned herein.

4.Admittedly, the petitioner made application seeking job on compassionate grounds, beyond the period of limitation. Therefore, the reason stated in the order impugned herein, is valid in law and the same requires no interference at the hands of this Court, in view of the recent G.O.Ms.No.18, Labour and Employment (Q1) Department dated 23.01.2020 which supersedes all the Government Order earlier passed from the year 1972, as per which, the application should be made within a period of 3 years from the date of death of the Government servant.

5.There cannot be any dispute that the compassionate appointment is intended to protect the family of the deceased from the sudden financial crisis and provide for livelihood and the family has to move on from the indigent circumstances. However, it cannot be made after the lapse of a period specified in the rules as it is not a vested right to exercise at any time in future [Refer: State of Haryana v. Rani Devi, 1996 (5) SCC 308].

6.That apart, in Chief Commissioner, Central Excise and Customs and others v. Prabhat Singh [(2012) 13 SCC 412], it was held by the Supreme Court that "the Court should not fall prey to any sympathy syndrome of issue direction for compassionate appointment dehors prescribed norms".

7.It is also apropos to point out that the issue involved herein came up for consideration in WP.(MD)No.7016 of 2011 by way of reference to the Full Bench of this Court, which answered the same by order dated 11.03.2020, paragraph 32(a) of which is profitably extracted hereunder:

"Appointment on compassionate basis has to be strictly followed in accordance with the relevant G.O.'s or the Scheme that has been framed by the employer. Any deviation from the Scheme is not permissible."

8.Paragraph 31 of the aforesaid Full Bench decision is with respect to belated submission of application, which reads

as follows:

"The Hon'ble Supreme Court in Sanjay Kumar v. State of Bihar, (2000) 7 SCC 192, has held that when the very purpose of compassionate appointment is to see that the family gets immediate relief, then the application by the dependent of the deceased employee filed after he attains majority cannot be entertained. Considering a belated application will be contrary to the Scheme framed by the Government and will be also contrary to the judgments of the Supreme Court."

9. Therefore, this Court cannot take a different stand contrary to the recent G.O.(Ms).No.18, Labour and Employment (Q1) Department, dated 23.01.2020 as well the decision of the Full Bench of this Court in WP.(MD).NO.7016 of 2011 dated 11.03.2020.

10. For the reasons stated above, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Engineer,
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai - 600 002.

2. The Superintending Engineer,
Perambalur Electricity Board,
Perambalur

W.P.No.25267 of 2016

GSM(CO)
A.SK(12.07.2021)

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